

Public Act 91-941 changed the thresholds, beginning October 1, 2000, for quarter monthly payments and payments required to be made through the use of electronic funds transfer regarding liabilities under the Use Tax Act, the Retailers Occupation Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act. See P.A. 91-941. (This is a GIL).

December 29, 1999

Dear Xxxxx:

This letter is in response to your letter dated December 2, 1999, that was received by our office on December 16, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

The enclosed Report and Tax Bulletins have been revised editorially and are scheduled to be mailed to corporations represented by us in the State. In order to be sure that they reflect as accurately as possible the current policies of the administering officials, it has been our practice to submit the Bulletins in advance of the actual mailing for their approvals.

Any comments or suggestions you may wish to make will be given full consideration and any changes requested by you which apply to general business corporations will be adopted, subject of course to space limitations in our Bulletins.

Your cooperation will be much appreciated.

We cannot approve the accuracy of private legal publications. However, we have noted some errors in the draft attached to your letter. Due to staffing constraints, we cannot provide you with a detailed list of all the errors contained in the draft. We recommend that you review your prior drafts in these areas and the Illinois Statutes, Administrative Rules, and letter rulings regarding these issues.

We have set out a few of the major errors as examples. In the Retailers' Occupation Tax section, the text referencing quarter-monthly payments states that the amount of the quarter-monthly payments should be 22.5% of the taxpayer's actual liability for the month, 25% of the taxpayer's liability for the same calendar month for the preceding year, or 100% of the taxpayer's actual quarter-monthly liability. For periods after January 1, 1996, the option of 100% of the taxpayer's actual liability for that month is no longer in effect. Please note that we recommended correction of this error in our letter to you dated February 29, 1999.

Since my latest letter to you described above, the legislature has enacted P.A. 91-941, effective August 13, 1999. This Act changed the quarter-monthly thresholds and electronic funds transfer thresholds for taxpayers that have liabilities under the Retailers' Occupation Tax Act, Service Occupation Tax Act, Service Use Tax Act, and the Use Tax Act.

On and after October 1, 2000, if the taxpayer's average monthly tax liability to the Department under Use Tax Act, the Retailers Occupation Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act was \$20,000 or more during the preceding 4 complete calendar quarters, the taxpayer must make payment to the Department on or before the 7th, 15th, 22nd and last day or the month during which such liability is incurred.

On and after October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department must continue until the taxpayer's average monthly liability to the Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than \$19,000 or until the taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarter period is less than \$20,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that its average monthly tax liability for the reasonably foreseeable future will fall below the \$20,000 threshold stated above, then the taxpayer may petition the Department for a change in that taxpayer's reporting status.

In addition, beginning October 1, 2000, a taxpayer who has an annual tax liability of \$200,000 or more shall make all payments required by rules of the Department by electronic funds transfer. The term "annual tax liability" is the sum of the taxpayer's liabilities under the Use Tax Act, the Retailers Occupation Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year.

Your report/bulletin regarding Retailers' Occupation Tax also references the electronic funds transfer provisions for suppliers of electricity and self-assessing purchasers of electricity. Please note that although those provisions are correct, they are governed by the Electricity Excise Tax Act and not the Retailers' Occupation Tax Act. See 35 ILCS 640/2-9 (1998 State Bar Edition).

Your section on Use Tax states that "the use tax is not imposed on out of state transactions to the extent the tax was paid to another state." Subsection (d) of Section 3-55 of the Use Tax Act provides that the Use Tax is not imposed upon "the use, in this State, of tangible personal property that is acquired outside this State and caused to be brought into this State by a person who has already paid a tax in another State in respect to the sale, purchase, or use of that property, to the extent of the amount of the tax *properly due* and paid in the other State." See 35 ILCS 105/3-55 (1998 State Bar Edition). We did note that a similar reference in the Service Use Tax section was correct.

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I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Terry D. Charlton  
Associate Counsel

TDC:msk  
Enc.